



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC120

Request for Public Comment on a Supplemental Draft Environmental Impact Statement Regarding the Makah Tribe's Request to Hunt Eastern North Pacific Gray Whales

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), this notice announces that NMFS has prepared a Supplemental Draft Environmental Impact Statement (SDEIS) to supplement information in the 2015 Draft Environmental Impact Statement (DEIS) on the Makah Tribe's request that NMFS waive the take moratorium of the Marine Mammal Protection Act (MMPA) to allow for treaty right hunting of eastern North Pacific (ENP) gray whales in usual and accustomed grounds off the coast of Washington State. The SDEIS considers a composite action alternative, which is composed of elements from the five action alternatives already analyzed in the DEIS, and provides recent updates on the affected environment and the environmental impacts associated with the composite alternative. NMFS is requesting written comments on the SDEIS to assist NMFS with its final decision on the Tribe's request.

DATES: Written or electronic comments from all interested parties are encouraged and must be received no later than 5 p.m. Pacific Daylight Time on August 15, 2022. All comments and material received, including names and addresses, will become part of the administrative record and may be released to the public.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2012-0104-

0454, by any of the following methods:

Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal <https://www.regulations.gov>.

- OR -

Email: Submit electronic public comments via the following NMFS e-mail address:

makah2022sdeis.wcr@noaa.gov

- OR -

Mail: Submit written comments to: Grace Ferrara, NMFS West Coast Region, 7600 Sand Point Way NE Seattle, WA 98115.

Instructions: All comments received are a part of the public record and will generally be posted to <https://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Grace Ferrara, NMFS Northwest Region, (206) 526-6172, *makah2022sdeis.wcr@noaa.gov*.

SUPPLEMENTARY INFORMATION: The SDEIS is available in electronic form on the Internet at the following address: <https://www.fisheries.noaa.gov/west-coast/marine-mammal-protection/makah-tribal-whale-hunt>. In addition, copies of the SDEIS are available on CD by contacting Grace Ferrara (see **FOR FURTHER INFORMATION CONTACT**).

Background

On July 1, 2022, the U.S. Environmental Protection Agency announced the availability of NMFS' SDEIS concerning the Makah Indian Tribe's February 2005 request to resume limited hunting of ENP gray whales in the coastal portion of the Tribe's usual and accustomed fishing grounds, off the coast of Washington State, for ceremonial and subsistence purposes. Informed by information received during public scoping and public comments on a DEIS released on March 13, 2015 (80 FR 13373), this SDEIS contains updates and evaluates a composite alternative composed of elements of the alternatives analyzed in the 2015 DEIS. The SDEIS also incorporates information presented at a 5-day hearing on this matter, held before an administrative law judge (ALJ) in November 2019, as well as recommendations provided in the ALJ's Recommended Decision. The Tribe's proposed action stems from the 1855 Treaty of Neah Bay, which expressly secures the Makah Tribe's right to hunt whales. To exercise that right, the Tribe is seeking authorization from NMFS under the MMPA and the Whaling Convention Act. The release of this SDEIS is one of several steps NMFS will undertake to evaluate the Tribe's request.

The SDEIS, prepared pursuant to the NEPA, separately evaluates an additional action alternative that was derived from other action alternatives analyzed in the DEIS and the ALJ's recommended decision. It also provides recent updates on the affected environment and the environmental impacts associated with NMFS' proposed hunt plan as set forth in the new composite alternative. The composite alternative – identified in the SDEIS as the Preferred Alternative—includes many of the same principal components of the other action alternatives, including: restrictions on the time when whale hunting would occur; annual limits on the number of whales harvested, struck, and struck and lost; cessation of whale hunting if a predetermined number of identified whales (i.e., whales included in a photographic catalog of whales from the Pacific Coast Feeding Group area) were harvested; and the method of hunting. The Preferred Alternative also

limits the duration of the waiver period to ten years. This SDEIS addresses a number of resources identified for review during both internal and public scoping for the DEIS, including: water quality, marine habitat and species, eastern and western North Pacific gray whales, other wildlife species, economics, environmental justice, social environment, cultural resources, ceremonial and subsistence resources, noise, aesthetics, transportation, public services, public safety, and human health.

The SDEIS provides an important opportunity for the public to formally comment on the preferred alternative. These comments, in conjunction with considerations described in the DEIS and SDEIS, will provide key information to assist NMFS with its final decision on the Tribe's request.

Authority: The environmental review of the Makah Tribe's request to resume treaty-based hunting of ENP gray whales will be conducted under the authority and in accordance with the requirements of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.*), Council on Environmental Quality Regulations (40 CFR parts 1500-1508), the MMPA (16 U.S.C. 1361-1421h), other applicable Federal laws and regulations, and policies and procedures of NMFS for compliance with those regulations.

Dated: June 29, 2022.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

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